

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA, :
: Case No. 1:10cr200 (LMB)
v. :
: LEE BENTLEY FARKAS, :
: Defendant. :
:

**MEMORANDUM IN SUPPORT OF DEFENDANT'S
MOTION FOR ADDITION OF NO MORE THAN TWELVE
QUESTIONS TO JUROR QUALIFICATION QUESTIONNAIRE**

Defendant, LEE BENTLEY FARKAS, by undersigned counsel submits this memorandum in support of his motion for addition of no more than twelve questions to juror qualification questionnaire, and states the following in support thereof:

ARGUMENT

The Plan for the Random Selection of Grand and Petit Jurors, p. 4, provides:

The clerk shall mail to every person whose name is selected a juror qualification questionnaire with instructions to complete and return the form duly signed and sworn to the clerk within ten (10) days. If the person is unable to fill out the questionnaire, another person shall do it for the prospective juror and shall so indicate the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in the responses on the questionnaire, the clerk shall return the form with instructions to the person to make such additions or corrections as may be necessary and return the questionnaire to the clerk within ten (10) days.

Juror questionnaires are important because the answers can identify reasons why a juror must be disqualified from jury service, or exempted or excused from jury service. In addition, answers on questionnaires may pose fair trial issues. *See Jones v. Cooper*, 311 F.3d 306 (4th Cir. 2002):

In *McDonough Power Equip., Inc. v. Greenwood*, 464 U.S. 548, 104 S.Ct. 845, 78 L.Ed.2d 663 (1984), the Supreme Court set forth a particularized test for determining whether a new trial is required in the context of juror deceit during voir dire or on jury questionnaires. That two-part test states that in order to obtain a new trial, the defendant “must first demonstrate that a juror failed to answer honestly a material question . . . and then further show that a correct response would have provided a valid basis for a challenge for cause.” *Id.* at 556, 104 S.Ct. 845.

Id. at 310. *See also United States v. Rucker*, 557 F.2d 1046 (4th Cir. 1977), in which “two jurors did not fully answer a question on their jury questionnaire as to whether any mental or physical impairment would prevent them from serving on the jury.” *United States v. Toliver*, 387 Fed. Appx. 406, 2010 WL 2749599 *8 (4th Cir. 2010).

Here, potential jurors may have banking, loan, mortgage, or other financial connections to the myriad companies and entities who will be part and parcel of both the Government’s presentation and the defense case. Posing relevant questions to the jurors before they appear in Court at the April trial will benefit the Court, the Government and the defense in our joint effort to secure a fair and unbiased panel.

CONCLUSION

For the foregoing reasons, we respectfully request that the Court grant Defendant’s Motion For Addition of No More than Twelve Questions to Juror Qualification Questionnaire.

Respectfully submitted,

LEE BENTLEY FARKAS

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to at least the following registered ECF users:

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